



MINUTES

City Council Regular Meeting
June 15, 2021 - 7:00 PM

CALL TO ORDER

Mayor Rudy called the meeting to order at 6:59 p.m.

PLEDGE

ROLL CALL

Mayor:	Brian Rudy
Mayor Pro-Tem:	Mark Clark
Council:	Laura Speer
	Alicia Johnson - ABSENT
	Fred Neal
	Amanda Castle - ABSENT
	Tammy Mortenson - ABSENT

AUDIENCE PARTICIPATION

There was no audience participation.

APPROVAL OF AGENDA

Mayor Pro-Tem Clark made the motion, seconded by Council Member Speer to approve the agenda as submitted. The motion passed with all voting in favor thereof.

CONSENT AGENDA

1. Approval of the June 1, 2021 City Council Meeting Minutes

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal to approve the consent agenda as presented. The motion passed with all voting in favor thereof.

NEW BUSINESS

2. Public Hearing: Consideration of Ordinance Number 745-21, an Ordinance Repealing and Replacing Chapter 18.09 of the Evans Municipal Code - the Sign Code - 1st Reading

Mayor Rudy opened the public hearing at 7:01 p.m.

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the proposed changes to the Sign Code. An update to the Sign Code is needed in order to clarify and refine language for use by applicants and staff. Sign Codes can be difficult to use and there are many different definitions, interpretations, and technology changes to be reflected in a nimble Code. The proposed language refines the Code to address the following: type of sign vs. the message conveyed; develop a Purpose and Intent Section; content-neutral sign types; provide signs exempt from permit; off-premises signs; and temporary signs. Planning Commission and City Council have held numerous work sessions in the past 9 months regarding the Sign Code. A draft copy of the proposed ordinance was provided to local sign construction and fabrication companies and to local businesses for comment. To date, two comments have been received and incorporated into the final document presented. The City retained the services of Gould Evans to help prepare the attached Sign Code. Staff, Gould Evans and the City Attorney have reviewed the attached draft and are in agreement with the content.

Mayor Rudy asked if there was anyone in the audience wishing to speak in favor of the proposed ordinance. There were none.

Mayor Rudy asked if there was anyone in the audience wishing to speak in opposition of the proposed ordinance. There were none.

Council Member Speer asked staff if existing signs would be grandfathered in. Anne Best Johnson responded that existing signs would be considered legal non-conforming and would not be required to meet the proposed Sign Code unless substantial changes are made to the sign.

Mayor Rudy closed the public hearing at 7:07 p.m.

Mayor Pro-Tem is in favor of the proposed Ordinance.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Speer to approve Ordinance Number 745-21 on first reading. The motion passed with all voting in favor thereof.

3. Consideration of Resolution Number 09-2021 Approving a Special Use Permit to allow Motor Vehicle Sales, Office and Outdoor Storage at 922 37th Street in the 85-RC-N Zone District

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the proposed Resolution. The applicant is seeking approval of a Special Use Permit for a 0.496-acre parcel located at 922 37th Street with an existing building on the lot. The property is zoned 85-RC-N. After considering the long-term use of the property, the property owner decided to change from a Site Plan process to a Special Use Permit process to utilize the property for not only an "Office" but to also include "Motor Vehicle

Sales” and “Outdoor Storage” uses. The applicants’ business is focused on the restoration of classic and antique cars. The applicants have their larger sales floor and show room outside of Evans, but wanted to maximize their property potential in Evans and may have sales of vehicles from the property. The current property is 100% impervious with more than half the site encumbered with the existing building. The building footprint will not be changing however, trees and shrubs will be added to the north side of the building in the public right-of-way, and trees will be added to the east and west sides of the building. The maximum lot coverage allowed in the 85-RC-N zone district is 80%. The applicant is proposing approximately 10% pervious areas with the removal of existing pavement. The landscaped areas will be planted with trees and shrubs approved by the City Operations and Parks Department. The other third of the site will include space for the public sidewalk, a paved area on the west and a paved drive lane on the north for automobiles to enter the show room that cannot make the grade change to enter the eastern garage door. While this proposal represents redevelopment of an existing property, it sits at an important entrance to the City of Evans at the southeastern corner of US85 and 37th Street. The property owner recognizes this impact and in addition to the trees which will be planted along the western property boundary, the existing chain link fence will be removed, as is required by the 85-Overlay District development standards and replaced with a cedar fence running parallel with US-85. This fence will provide privacy for the limited Outdoor Storage (18%). The Evans Municipal Code specifies that Outdoor Storage is a use to be permitted through the Special Use Permit process in the 85-RC-N Zone District. While the Land Use Code authorizes up to 20% of a property in this Zone District to be used for Outdoor Storage, the applicants will only utilize 18% of the property in Outdoor Storage. This limitation is imposed solely upon the lot configuration and the existing building footprint. At a public hearing on May 25, 2021, Planning Commission recommended approval of the applicant’s request and to send a recommendation to City Council for Council’s consideration. Planning Commission found that the Special Use Permit for 922 37th Street meets the Criteria for Approval as outlined in Section 18.06.060.F.5 of the Municipal Code and contained in the Staff Agenda Item Memo.

Representing the property owner, Eric Wernsman, Wernsman Engineering, 1101 42nd Street, Evans CO, was present and available to answer any questions City Council may have.

Council Member Speer asked about disposal of any hazardous waste. Mr. Wernsman responded that the property owner installed a grease trap but will not be doing oil changes and such at this site.

Council Member Speers asked what would be stored outside. Mr. Wernsman responded that there could be a trailer and possibly a shed.

Council Member Speer asked staff if there is a sunset provision being placed on the Special Use Permit. Anne Best Johnson responded that as long as the owner remains in compliance with the Special Use Permit and Site Plan, they can operate.

Council Member Speer stated that the property is being cleaned up and the building has new windows. She would have preferred a more revenue-generating business at that location. However, she is happy to see that corner being cleaned up.

Council Member Neal likes that the building will no longer be used as a flea market and believes this will be a nice addition to that corner.

Mayor Pro-Tem Clark likes the improvements to the building and is in favor of the Special Use Permit.

Mayor Rudy is also in favor and wishes the owner the best.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal to approve Resolution Number 09-2021 for the property located at 922 37th Street with the Conditions of Approval found in the Recommendation Section of the Staff Report. The motion passed with all voting in favor thereof.

4. Consideration of Approval of the Site Improvements Agreement for Dan's Garage, 922 37th Street

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the proposed Agreement. Dan's Garage has completed the Special Use Permit process for the property located at 922 37th Street. The Special Use Permit was heard by Planning Commission on May 25. Planning Commission sent a recommendation of approval to City Council who heard the Special Use Permit request prior to this agenda item. The specific improvements, agreements or obligations are contained in the Staff Agenda Item Memo.

Council Member Speer made the motion, seconded by Council Member Neal to approve the Site Improvements Agreement for Dan's Garage located at 922 37th Street and to authorize the Mayor to sign the Site Improvements Agreement. The motion passed with all voting in favor thereof.

5. Consideration of Resolution Number 10-2021 to allow reduced side and front yard setbacks for property located at 4300 Industrial Parkway

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the variance request. The applicant, H & H Excavation, is requesting a variance on the property located at 4300 Industrial Parkway. The City's Board of Zoning Appeals heard this request at a Public Hearing on May 25, 2021. Two variance requests have been made. In the I-1 zone district the minimum side setback is 30 feet. The applicant has requested that this setback be reduced to 10 feet. This would allow for the creation of a shop building and better circulation on the site. The encroachment into the side setback area would be 20 feet. Also, in the I-1 zone district the minimum front setback is 25 feet. The applicant has requested that this setback be reduced to 11.9 feet at the closest point. The proposed front setback would vary from 10 feet to 25 feet due to the curve of the northern property line. The proposed variance would allow for the creation of the proposed shop building at the northern side of the property. The encroachment into the front setback would be 13.1 feet. If the variance is approved, the applicant will have use of 16,800 +/- square feet of the 0.57 +/- acre property vs. 7,700 +/- square feet of the property if the variance

request is denied. Strict adherence to the dimensional standards of the Industrial Zone District would make this property unusable for any use other than outdoor storage, due to the narrow shape and size of the lot. The Board of Zoning Appeals found that the variance request for 922 37th Street meets the Criteria for Approval as outlined in Section 18.06.100.D of the Municipal Code and contained in the Staff Agenda Item Memo.

Mayor Pro-Tem Clark asked if there are code compliance issues with this property or surrounding properties. Anne Best Johnson responded that there are issues with surrounding properties in the area. Mr. Becklenberg added that new development within the Industrial Park will bring added value to the Industrial Park overall.

Council Member Neal stated that this is an odd-shaped property and it is difficult to do things with odd-shaped properties. He believes this will be a nice addition to the Industrial Park.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Speer to approve Resolution Number 10-2021. The motion passed with all voting in favor thereof.

6. Consideration of Resolution Number 11-2021 Approving a Special Use Permit for Office, Maintenance and Outside Storage at 4300 Industrial Parkway, in the I-1 Zone District

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the proposed Resolution. The applicant, H & H Excavation, is requesting a Special Use Permit to allow an Office, vehicle maintenance (Industrial Uses) for the applicant's vehicles, and Outdoor Storage in excess of 10% on property located at 4300 Industrial Parkway. The intent of the proposed development is to create a support facility for storage and maintenance of excavation equipment used by H & H Excavating. The Special Use Permit is required due to the amount of proposed outdoor storage. The applicant is proposing 46.1% outdoor storage which exceeds 10% allowed in the I-1 Zone District. The proposed remainder of the site would hold a maintenance building, sufficient road access, a water quality feature and the required landscaping. The applicant has agreed to relocate a lone tree that would have been located near the water quality feature to be placed closer to the building. The proposed building would house excavation equipment that is sensitive to the elements. While there are no full-time employees on the site, the building would have electrical service and a bathroom. The outdoor storage will hold other excavation equipment, trailers, and construction materials that are required for the nature of the business. City Council approved a variance for the property under the previous agenda item. Planning Commission found that the Special Use Permit for 4300 Industrial Parkway meets the Criteria for Approval as outlined in Section 18.06.060.F.5 of the Municipal Code and contained in the Staff Agenda Item Memo. Planning Commission heard the land use application request at a Public Hearing on May 25, 2021 and forwarded a recommendation of approval to City Council for consideration with the conditions listed in Staff Agenda Item Memo.

Council Member Speer asked for clarification on the water quality feature. Anne Best Johnson responded that all properties in the Industrial District are required to have some on-site water detention and that is what the water quality feature refers to.

Council Member Speer noted that the lone tree could have remained in the original proposed location without having to install drip irrigation.

Council Member Neal was curious to know about the excavation equipment that is sensitive to the elements. Anne Best Johnson stated that she does not know what type of equipment it is.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal to approve Resolution Number 11-2021. The motion passed with all voting in favor thereof.

7. Consideration of Approval of the Site Improvements Agreement for H & H Excavating at 4300 Industrial Parkway

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Anne Best Johnson, Community Development Director.

Anne Best Johnson provided an overview of the proposed Agreement. H & H Excavating has received approval of a Special Use Permit and a Variance to allow an Office, Maintenance and Outdoor Storage on the property located at 4300 Industrial Parkway in the Evans Industrial Park. Specific improvements, agreements or obligations in this Site Improvements Agreement are listed in the Staff Agenda Item Memo.

Council Member Speer believes that the area on Industrial Parkway has come along and is moving toward the vision that City Council has for that Industrial Park.

Council Member Neal confirmed with staff that H & H Excavating has done work for the City in the past.

Council Member Speer made the motion, seconded by Council Member Neal to approve the Site Improvements Agreement for H & H Excavating and to authorize the Mayor to sign Agreement. The motion passed with all voting in favor thereof.

8. Consideration of Approval of Evans WWTP Lagoon Decommissioning & Emergency Overflow Replacement Contract

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Mark Oberschmidt, City Engineer.

Mark Oberschmidt provided an overview of the proposed design contract. CDPHE requires that all non-functioning wastewater treatment plants (WWTPs) like the old Evans lagoons at 37th Street and 1st Avenue be decommissioned when they are no longer in use. Even though the City has not used this site for wastewater treatment since 2018, it is still covered under an active Colorado Department of Public Health and Environment (CDPHE) discharge permit. Decommissioning is required to close out the permit and terminate the licensing cost and

reporting requirement. The City's preferred approach to mitigating storm drainage concerns on the east side of Evans involves piping across the WWTP site to an existing outfall east of 1st Avenue. Decommissioning the facility will make the land available for alternate uses, including this new storm drainage pipeline. Crossing the site through what is now the northern lagoon will eliminate several hundred feet of costly concrete piping. The current emergency overflow pond for the lift station is constrained by the elevations of nearby domestic sewage connections into the system. These elevations limit the overflow pond's design intent to allow gravity inflow and then discharge back into the lift station. The existing overflow also suffers from the uplift effects of high ground water at the site. The City currently has to keep water within the overflow pond to act as ballast to keep the liner from tearing away. Keeping this storage water ballast in the overflow pond effectively reduces the storage capacity below what it should be for the lift station. The 2021 Wastewater Fund Capital Budget includes \$2,250,000 for construction activities related to closing and grading the former lagoons and the construction of a 200,000-gallon capacity emergency storage facility to support the City's lift station in case of a complete loss of power. The City has received construction contract bids from six (6) contractors to decommission the former Evans Wastewater Treatment Plant. Staff recommends that City Council award the construction contract for the Evans WWTP Lagoon Decommissioning and Lift Station Replacement project to L4 Environmental in the amount of \$2,024,602.00 with a 9.14% contingency of \$185,079.64 (remaining budget) to be accessed only with City Manager approval to handle unforeseen circumstances that may occur during construction.

Council Member Neal asked if the chemicals that are being stored in the building that have to be removed could be used at the new wastewater treatment plant. Randy Ready, Assistant City Manager, stated that the chemicals cannot be used at the new treatment plant. They are not compatible with that system.

Council Member Speer stated that other municipalities have lagoons and asked if the City could sell those chemicals. Randy Ready stated that the chemicals are expired and need to be properly disposed of.

Mayor Pro-Tem Clark stated that he was concerned at first about the difference between the low and high bids, but knowing that L4 Environmental is already working in Evans and is doing good work he is in favor.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal to award the Evans WWTP Lagoon Decommissioning and Lift Station Replacement project contract to L4 Environmental in the amount of \$2,024,602 with a not-to-exceed amount of \$2,209,681.64, and to authorize the Mayor's signature on the contract. The motion passed with all voting in favor thereof.

9. Consideration of Approval of 23rd Avenue Widening Design Contract

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Mark Oberschmidt, City Engineer.

Mark Oberschmidt provided an overview of the proposed design contract. In 2019, the City of Evans worked with the developers of Mission Homestead and Mission Village to get the

western half of 23rd Avenue from Quay Street to 42nd Street constructed as a condition of approval in the development agreement. This roadway provided direct access to 42nd Street from Willowbrook and the new housing developments. Then in 2020, the City constructed the western half of 23rd Avenue from Quay Street north to 37th Street. This portion of roadway was formally opened by the end of 2020. The City then contracted with Coffey Engineering and Surveying to complete a topographic survey of the road for use in completing the design of the eastern half of 23rd Avenue to develop a complete arterial street section. The full width of the project was designed in 2019 from 37th Street to Quay Street for eventual construction when budget became available. The eastern half of the road south of Quay Street still has to be designed in order to construct the entire eastern half of the roadway. This design will look similar to the western half, but there may be some grade changes and horizontal changes to minimize the grading impact on the properties along the eastern side of the ROW. Evans issued an RFP for the final design of the 23rd Avenue widening project in April 2021. Three proposals were received for the design of the project. Sanderson Stewart submitted the most responsive and responsible proposal with the highest overall score by identifying more project challenges and making more recommendations on how to deal with them than the other firms.

Council Member Speer asked if the City has worked with Sanderson Stewart previously. Mark Oberschmidt advised that he has worked with two of the principals of Sanderson Stewart directly in the past and had reached out to current clients and received positive feedback.

Council Member Neal likes that Sanderson Stewart had thought ahead and anticipated situations that may come up.

Council Member Speer made the motion, seconded by Mayor Pro-Tem Clark to award the 23rd Avenue Widening Design Contract to Sanderson Stewart in the amount of \$120,900, with a contingency of \$9,100 (~7.5%) to be used only with City Manager approval, resulting in a not to exceed amount of \$130,000 and to authorize the Mayor's signature on the contract. The motion passed with all voting in favor thereof.

REPORTS

10. City Manager

Mr. Becklenberg advised City Council that the non-potable service to Tuscany had started. He also advised City Council of the ACE summer internship program.

11. City Attorney

Scott Krob, City Attorney, provided an overview of the One Love business license hearing.

AUDIENCE PARTICIPATION (general comments)

There was no audience participation.

EXECUTIVE SESSION

12. To receive legal advice from the City Attorney regarding law enforcement and licensing of hotels under C.R.S. Section 24-6-402(4)(b)

Mayor Pro-Tem Clark made the motion, seconded by Council Member Speer to move into Executive Session at 8:05 p.m. to receive legal advice from the City Attorney regarding law enforcement and licensing of hotels under C.R.S. Section 24-6-402(4)(b). The motion passed with all voting in favor thereof.

The meeting reconvened at 8:48 p.m.

Scott Krob noted for the record that the executive session that Council concluded was within the scope of the statute and that he was present for the duration of the discussion, so the discussion is subject to the attorney client privilege.

ADJOURNMENT

The meeting was adjourned at 8:48 p.m.


City Clerk



CITY OF EVANS – MISSION STATEMENT

“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”

It is the policy of the City of Evans that all programs and activities shall be accessible to, and usable by, persons with disabilities. Persons needing assistance shall contact the Safety & Risk Management Manager at the City of Evans. Please provide three to five business day's advance notice so we can adequately meet your needs.